Writ Petition No. 440 (M/s) 2003

Naresh Kathait- …. Petitioner

Versus

Divisional Forest Officer & others- … Respondents.

Hon'ble M.M. Ghildiyal J.

The petitioner, by means of this writ petition, has challenged the order-dated 05.04.2003 passed by District Judge, Tehri Garhwal in Original suit No. 7 of 2003.

The facts of the case are that a tender notice was published by Divisional Forest Officer Narendra Nagar, Forest Range, Tehri Garhwal, inviting tenders for running a canteen at Byasi, district Tehri Garhwal for the period 30th June, 2000 to 31.03.2003. The contract was awarded to the petitioner.

There was a condition in the tender that the Forest Department will provide facilities like- water, electricity, parking etc. to the contractor. However, the Department did not provide the aforesaid facilities. Consequently, the petitioner has to make arrangements for the generator and fetching of water and consequently the canteen, itself was inaugurated by the Forest Minister on 16.08.2001. The facilities, which were required to be provided by the Department, have yet not been provided and the petitioner had to spend a huge amount of money for such facilities. On 19.03.2003, the Range Officer, Shivpuri Range, under whose jurisdiction the said canteen is being run, wrote a letter to the petitioner that since the period of contract to run the canteen, is expiring on 31st March, 2003, the petitioner after depositing all the dues like- electricity, water etc. Shall hand over the possession of the canteen to the Department.

Consequently, the petitioner filed a suit before the District Judge, Tehri Garhwal alongwith a application for injunction restraining the defendant not to interfere with the running of canteen. The District Judge, Tehri Garhwal, rejected the injunction application

against the rejection order the petitioner has preferred present writ petition.

Heard learned Counsel for both the parties.

The submission of the petitioner is that initially though, the contract was awarded to the petitioner for a period of three years till 31st March 2003, but in view of the fact that the facilities which were required to be provided by the Department were not provide, the canteen itself, was started with effect from 16.08.2001. The petitioner submitted that on 11.09.2001 he moved an application before the Chief Conservator of Forest, Uttaranchal, Dehradun on which the Chief Conservator of Forest asked for the report from the Conservator of Forest who recommended that though, the period for which the petitioner was awarded contract to run canteen will be expiring on 31st March, 2003 yet since the canteen started functioning with effect from 16.08.2001, the petitioner be permitted to run the canteen till 15.08.2004 and further recommended that the petitioner be permitted to run the canteen on the same terms and conditions for further three years till 15.08.2007. The contention of the petitioner is that in spite of these recommendations he is not being permitted to run canteen beyond 31st March 2003.

The learned District Judge, while rejecting the injunction application of the petitioner has held that the contract was given to the petitioner for a period of there years till 31st March 2003 and, as such, the petitioner is not entitled to grant of injunction in view of the fact that neither the prima-facie case nor balance of convenience is in favour of the petitioner. Further, since he has already completed the period for which the contract was awarded and by not granting injunction he will not suffer irreparable loss. I find no infirmity in the order passed by the District Judge, Tehri Garhwal in rejecting the injunction application.

The writ petition is dismissed. No order as to costs.

(M.M. Ghildiyal, J.)

May 26, 2003:
NCM: